



**Meeting of the City Council
Held at the Elk River City Hall
Monday, July 15, 2024**

Members Present: Mayor John Dietz, Councilmember Jennifer Wagner, Councilmember Mike Beyer, Councilmember Matt Westgaard, Councilmember Cory Grupa

Members Absent: None.

Staff Present: City Administrator Cal Portner, City Attorney Jared Shepherd, Interim Police Chief Darren McKernan, Police Captain Joe Gacke, Senior Planner Chris Leeseberg, Business Services Director/Assistant City Administrator Joe Stremcha, Community Development Director Zack Carlton, Administrative Assistant Laura Estby, and Records Specialist Katie Porath

**Multipurpose Facility
Advisory Commission
Present:** Jacob Kotzian, Mike Westgaard, and Kara Walker

1. CALL MEETING TO ORDER

Pursuant to due call and notice thereof, the meeting was called to order at 6:04 PM.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. CONSIDER AGENDA

Mayor Dietz called for a moment of silence for the teenager in critical condition and two teenagers killed in an accident as well as the father who drowned this past week.

Mayor Dietz asked to remove Items 4.7 and 4.8 from the agenda.

Mayor Dietz questioned Item 4.12 if there was a way to get the \$150,000 discount for paying up front. Mr. Portner responded he believed they would get the discount by committing now.

Moved by Councilmember Westgaard and seconded by Councilmember Beyer to approve the agenda, as amended. Motion Carried 5-0.

4. CONSENT AGENDA

Moved by Councilmember Wagner and seconded by Councilmember Grupa to approve the following consent items as outlined in their respective staff reports. Motion Carried 5-0.

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- 4.1 July 1, 2024, Closed Meeting Minutes
 - 4.2 July 1, 2024, Regular Meeting Minutes
 - 4.3 Check Register
 - 4.4 Resolution 24-37: Great Northern Regional Trail Legacy Grant
 - 4.5 Proclamation: Volunteer Appreciation Day
 - 4.6 2024 Gravel Mining Licenses
 - 4.9 Resolution 24-39 authorizing the execution of the Agency Agreement 24-19 with MnDOT for Mega Loop Project.
 - 4.10 Resolution 24-40: IIJA Discretionary Grant Assistance Terms and Conditions
 - 4.11 Hire Concessions Supervisor
 - 4.12 Fire Department Engine 2 Replacement Agreement 24-20
 - 4.13 Resolution 24-41 Amending the Development Agreement and Note for Tax Increment District No. 26 (Shoot Steel) Agreement 24-21

Items removed from Consent Agenda:

- 4.7 Resolution 24-38: Findings of Fact Denying IUP Request for a Residential Occupation at 10208 209th Ave NW, Jason Bye

Mayor Dietz suggested delaying this item to a Work Session where they could compare this finding of fact point by point with the one for the neighbor up the street. Councilmember Westgaard asked if the item would need to be returned to the Planning Commission. City Attorney Shepherd said it would not.

Moved by Councilmember Grupa and seconded by Councilmember Beyer to table, by motion, Resolution 24-38 making Findings of Fact denying an Interim Use Permit application submitted by Jason Bye to the August 5, 2024 worksession. Motion Carried 5-0.

- 4.8 City of Elk River Towing Agreement 24-18

Interim Police Chief McKernan reviewed the process of receiving and awarding points to bids. One of the conditions of the contract stated the towing company must have a location in Elk River. James Trantina of Burda's Towing disputed this condition stating they could build a facility after they won the contract. Staff felt that the Request for Proposal submitted by Burda's Towing did not meet the specifications of the proposal and would require a leap of faith that the company could meet the requirements.

Moved by Councilmember Westgaard and seconded by Councilmember Grupa to approve, by motion, a Towing Agreement 24-18 between the City of Elk River and Collins Brothers Towing. Motion Carried 5-0.

Mayor Dietz asked Interim Police Chief McKernan to contact Burda's Towing and discuss the Council's decision.

5. OPEN FORUM

Deana McLean, chair of the Downtown Elk River Business Association (DERBA), informed the council that they have been awarded the "Minnesota Retailers Champions Retail Community Year Award" by the Minnesota Retailers Association.

Attorney Mitch Anderson of Rinke Noonan, representing Jason Bye, stated Mr. Bye is willing to work with the Council on additional conditions including preventing semi-trucks from coming onto the property, and hopes the Council will not deny the requested Interim Use Permit (IUP) without further review.

6. PRESENTATIONS, AWARDS, AND RECOGNITION

6.1 City of Elk River Volunteer of the Month

Mayor Dietz presented the July Volunteer of the Month award to Jeanne Swenson. He highlighted the following:

- Sunday school teacher at First Baptist Church
- Has logged more than 800 hours at Foster Grandparent at Otsego Elementary
- Volunteered at Handke Elementary in the past, helping with school carnival and book fair
- Helped chaperon a student trip to Wolf Ridge Conservation Camp
- Was a fundraiser for choir trips and banquets
- Has been a Catholic Charities volunteer since October 2022

6.2 Commission Interviews

The Council interviewed applicant Dornan Bland for the Heritage Preservation and Multipurpose Facility Advisory Commission openings. He stated he does not have a preference which committee he is appointed to. The Council will make a decision at the August 5, 2024 city council meeting.

7. PUBLIC HEARINGS

7.1 Variance: Freestanding Sign Size, 18823 Freeport St. NW - Holiday Gas Station

The staff report was presented.

Mayor Dietz opened the public hearing. There being no one to speak to this matter, Mayor Dietz closed the public hearing.

Councilmember Westgaard confirmed that the variance was only for the sign area, the height was approved. Mr. Leeseberg stated that was correct.

Moved by Councilmember Westgaard and seconded by Councilmember Wagner to direct staff, by motion, to prepare a resolution making Findings of Fact denying the sign size (area) variance for the following reasons:

1. The general purpose and intent of the ordinance is not met.
2. Installing a sign that exceeds the commercial zoning district limits by ~180% is not reasonable.
3. The interchange at Highway 169 and School Street is not a unique circumstance requiring a sign larger than the 150 square feet that is currently permitted.
4. A sign that is 276 square feet would be the largest and tallest sign in the area and would alter the essential character of the area.

Motion Carried 5-0.

7.2 Conditional Use Permit: Changeable Copy (Digital) Sign, 18823 Freeport St. NW - Holiday Gas Station

The staff report was presented.

Mayor Dietz opened the public hearing. There being no one to speak to this matter, Mayor Dietz closed the public hearing.

Moved by Councilmember Beyer and seconded by Councilmember Grupa to approve, by motion, the Conditional Use Permit with the following conditions:

1. The changeable copy sign shall not exceed 132 square feet.
2. The applicant must apply for and receive approval for all required permits before any construction may begin.
3. The signs shall be compliant with the standards set forth in Sec. 30-864 (e) or any variances related to signage on this property.

Motion Carried 5-0.

7.3 Zone Change: C-3 (Highway Commercial) to R-3 (Townhome/Multi-Family Residential), 75-00128-3101 - City of Elk River Ordinance 24-17

The staff report was presented.

Mayor Dietz opened the public hearing. There being no one to speak to this matter, Mayor Dietz closed the public hearing.

Moved by Councilmember Wagner and seconded by Councilmember Beyer to adopt, by motion, Ordinance 24-17 to rezone certain property from Highway Commercial (C3) to Townhouse/Multiple Family Residential (R3) as the rezoning is consistent with the City of Elk River Land Use Plan adopted as part of the City of Elk River Comprehensive Plan. Motion Carried 5-0.

8. GENERAL BUSINESS

8.1 2025 Benefit Level for Elk River Fire Relief Association

The staff report was presented.

Mayor Dietz stated the goal of the fund is to stay at 100% and not have extra money. Any excess is given back to the fire fighters.

Moved by Mayor Dietz and seconded by Councilmember Westgaard to approve, by motion, an increase for the Elk River Fire Relief Association (ERFRA) benefit level to \$9,735 per year of service effective January 1, 2025. Motion Carried 5-0.

8.2 Downtown Plan: Select Council Representative

The staff report was presented.

Mr. Carlton stated staff had selected a consultant and was forming a committee. Councilmember Wagner asked if she should serve as a Council representative to the committee or as a DERBA representative and if there was a conflict of interest. City Attorney Shepherd stated there was not a conflict of interest.

The Council expressed consensus for Councilmember Wagner to serve on the steering committee for the 2024 Downtown Small Area Plan as a Council representative.

Moved by Councilmember Westgaard and seconded by Councilmember Beyer to select Jennifer Wagner to serve as council member representative on the steering committee for the 2024 Downtown Small Area Plan. Motion Carried 5-0.

Councilmember Wagner gave an update that the Beautification and Public Art Committee was at Rivers Edge Commons Park to discuss the new public art. While there, Ryan Hardin suggested the city look into getting a life preserver or emergency button to install near the dock.

9. MOTION TO ADJOURN REGULAR MEETING

Moved by Councilmember Beyer and seconded by Councilmember Westgaard to adjourn the meeting of City Council. Motion Carried 5-0.

The regular meeting adjourned at 6:48 p.m. Mayor Dietz called the work session to order at 6:53 p.m.

10. WORK SESSION – UPPER TOWN CONFERENCE ROOM

10.1 Multipurpose Facility Commission Purpose and Authority

The Council discussed potential conflict of interest of the Multipurpose Facility Advisory Commission with City Attorney Shepherd.

Mr. Portner reviewed that the Multipurpose Facility Advisory Commission was comprised of representatives from various user groups including turf, ice, and senior center.

The Council would prefer to maintain the current structure of the commission. However, they agreed that City Attorney Shepherd should look into some “creative solutions” on how to structure the commission without causing conflict of interest such as an annual Council and Multipurpose Facility Advisory Commission joint meeting to begin fee discussions.

Commissioner Mike Westgaard stated that the Multipurpose Facility Advisory Commission is open to the idea of having set fees instead of individual contract negotiations. He requested that fee discussions start in April of each year because of the structure of the youth hockey season.

Commissioner Jacob Kotzian asked the Council if, before setting the rates at their next meeting, they could have discussions with the impacted user groups. He also requested that the commission be provided with utilization rates for the field house.

The Council asked to continue the discussion on rates to their August 5, 2024 meeting and invited the Multipurpose Facility Advisory Commission to attend.

12. CLOSED MEETING - 13690 186TH AVE NW

Pursuant to due call and notice thereof, the closed meeting was called to order at 8:03 PM.

Council Present: Mayor John Dietz, Councilmembers Cory Grupa, Matt Westgaard, Mike Beyer, and Jennifer Wagner

Staff Present: Community Development Director Zack Carlton, City Administrator Cal Portner, and Records Specialist Katie Porath

Others Present: City Attorney Jared Shepherd, Attorney Jack Brooksbank (Campbell Knutson)

12.1 Statement to be read by the Mayor:

"The City Council will be closing the meeting pursuant to MN Statute Section 13D.05, Subdivision 3(b) for a confidential attorney-client privileged discussion regarding potential code enforcement litigation against the property owner of 13690 186th Ave NW."

12.2 Motion Calling Closed Meeting

Moved by Councilmember Wagner and seconded by Councilmember Beyer to call the closed meeting to order. Motion Carried 5-0.

12.3 Hold Closed Meeting

The mayor stated the City Council will be holding a closed meeting pursuant to MN Statute Section 13D.05, Subdivision 3(b) for a confidential attorney-client privileged discussion regarding potential code enforcement litigation against the property owner of 13690 186th Ave NW.

The Closed Meeting adjourned at 8:21 PM. The Council returned to the regular meeting.

11. MOTION TO ADJOURN

Moved by Councilmember Beyer and seconded by Councilmember Wagner to adjourn the meeting of City Council. Motion Carried 5-0.

The meeting adjourned at 8:21 PM

Minutes prepared by Katie Porath.

13. INFORMATION

13.1 Financial Report - June

13.2 Investment Report - 2nd Quarter 2024



John J. Dietz, Mayor



Tina Allard, City Clerk